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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,434	03/09/2004	Daniel Lefebvre	BLA 10200	1856
25306	7590	01/25/2006		
LAW OFFICES OF RAYMOND A. NUZZO, LLC 579 THOMPSON AVENUE EAST HAVEN, CT 06512				
EXAMINER HOGE, GARY CHAPMAN				
ART UNIT		PAPER NUMBER		
3611				

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/796,434	Applicant(s) LEFEBVRE ET AL.	
	Examiner Gary C. Hoge	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 18-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 16, 2005.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Stabile (5,465,516).

Stabile discloses an apparatus comprising an elongate base member comprising a support member **18**, and at least one bracket **31** attached to the support member to allow the elongate base member to be attached to a structure; and a label containment member **22-27** secured to the support member of the elongate base member. The recitation that the containment member is “for displaying a price label” is merely a statement of intended use.

Regarding claim 4, Figs. 1, 3A and 3B show that the support member **18** has a front side that is substantially planar.

Regarding claim 5, the containment member is attached to the front side of the support member via top and bottom flanges that are formed integrally therewith. See Figs. 3A and 3B.

Regarding claim 13, anything is removable if sufficient force is applied.

4. Claims 1-5 and 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (2,787,382).

Williams discloses an apparatus comprising an elongate base member comprising a support member **66**, and at least one bracket **48** attached to the support member to allow the elongate base member to be attached to a structure; and a price label containment member **130** secured to the support member of the elongate base member for displaying a price label.

Regarding claim 13, anything is removable if sufficient force is applied.

Regarding claim 15, see Figs. 5 and 6. The support members disclosed by Williams are conventional shelves formed of bent sheet metal. Sheet metal is known to be flexible and resilient.

Regarding claim 17, see Fig. 6. The bracket **48** has a first portion **50** that forms a 90-degree angle with respect to the support member, and a second portion **54** that is attached to and angulated with respect to the first portion.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stabile (5,465,516) in view of Woodman et al. (4,753,026).

Stabile discloses the invention substantially as claimed, as set forth above. However, Stabile does not disclose a pair of guards attached to the ends of the elongate base member. Woodman et al. teaches that it was known in the art to provide guards at each end of an elongated sign (see, e.g., Fig. 14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the elongated member disclosed by Stabile with a pair of guards, as taught by Woodman, in order to prevent the sign from coming out of the containment member, and to improve the aesthetic appearance of the sign.

8. Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (2,787,382) in view of Thompson (4,557,064).

Williams discloses the invention substantially as claimed, as set forth above, including “a conventional price tag mold 130” (col. 4, lines 33-34). However, it is not clear from the drawing what the structure of that mold is. Therefore, a person having ordinary skill in the art must select a known conventional price tag mold. Thompson teaches that it was known in the art that such a mold includes a rear wall and opposing longitudinally extending flanged end portions that define a channel for receiving a price label. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the price tag mold taught by Thompson when

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constructing the device disclosed by Williams, as an obvious matter of choice in design, based upon such factors as cost and availability of parts to the designer.


Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary C Hoge
Primary Examiner
Art Unit 3611

gch